

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

CRIMINAL NO. 12-20030

vs.

HON. NANCY G. EDMUNDS

D-1 JEFFREY BEASLEY,

Defendant.

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**SENTENCING MEMORANDUM OF THE UNITED STATES
AS TO DEFENDANT JEFFREY BEASLEY**

The United States of America submits the following memorandum concerning the sentencing of defendant Jeffrey Beasley.

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I. INTRODUCTION

Jeffrey Beasley betrayed the trust of the thousands of pensioners and employees who counted on him to grow and protect their pensions and to secure their futures. In January 2006, when Beasley became city Treasurer and a Trustee of both of Detroit's pension systems, Beasley faced a choice. He could have used his intelligence, people skills, financial acumen, and leadership to have a positive impact on the pension systems of the city. Instead, Beasley's greed and selfishness led him to use his positions as Treasurer and Trustee to corruptly make money for himself as a result of his oversight of billions of dollars. Beasley's arrival at the pensions systems coincided with an infusion of hundreds of millions of dollars into the two systems. Beasley used this opportunity and his inherent power as the head of the Kilpatrick administration's bloc of trustees to personally enrich himself at the expense of the pensioners.

When Beasley came to the Detroit pension systems in January 2006, he encountered a system already rife with corruption. Beasley then used his talents to make that corruption even worse. He was a catalyst of corruption. Beasley's decisions as Treasurer and Trustee were for sale, either to his own direct benefit or to the benefit of his boss, the Mayor. Beasley made decisions not based on the best interests of the pensioners or the pension systems, but based on his own greed and the greed of his fellow trustees who joined in the conspiracy. The Detroit pension

systems lost millions of dollars as a result of Beasley's corrupted decisions. The sentence imposed on Beasley should reflect the damage that he inflicted on the pensioners, city employees, and the pension systems. The sentence also should serve as a message to other trustees and public officials responsible for public pension systems: greed-fueled corruption that undermines the financial security of pensioners will receive tough punishment.

As a highly-talented and educated public servant, Beasley was especially qualified to understand the gravity of his crimes. He understood the power and trust given to elected officials, and the fact that corruption benefits the few at the expense of the many. His crimes were not the result of a momentary lapse in judgment. Over the course of two and a half years on the pension boards, Beasley systematically exploited his office to enrich himself, his fellow corrupt trustees, his boss, and the bribe payers desperate to get their hands on the billions of dollars residing in Detroit's pension systems.

Taking into consideration the gravity of Beasley's crimes, his leadership role in them, the impact on the pensioners and the city, as well as the sentencing guidelines and the statutory factors set forth at Title 18, United States Code, Section 3553(a), a sentence of at least 15 years in prison is appropriate in this case.

II. ARGUMENT

A. The Nature and Circumstances of Beasley's Crimes (18 U.S.C. § 3553(a)(1))

From January 2006 through September 2008, Jeffrey Beasley served as the Treasurer of the City of Detroit and a Trustee of the General Retirement System (“GRS”) and of the Police and Fire Retirement System (“PFRS”). Detroit’s two pension systems held billions of dollars in assets in trust for employees, pensioners, and beneficiaries. During the conspiracy, the GRS covered 8,823 active employees and 11,388 pensioners and beneficiaries, while the PFRS covered 4,078 active employees and 8,442 pensioners and beneficiaries.

Because of his personality and position, Beasley served as the leader of the Kilpatrick administration’s bloc of votes on both pension boards—four votes on the PFRS and three votes on the GRS. Beasley also forged corrupt alliances with certain other Trustees on the boards in order to secure a majority vote. While serving as Treasurer and Trustee, Beasley accepted and demanded bribes and kickbacks in exchange for his vote and his influence over other votes. These bribes and kickbacks were paid by third party marketers, investment sponsors, and contractors to the pension systems. Set forth below is a summary of some of the various deals on which Beasley accepted bribes and kickbacks.

1. Bribes on the ICG Leaseback Deal

In 2007, the GRS and PFRS invested \$44 million in the ICG Leaseback deal, in which Robert Shumake, the investment sponsor, structured the leased-back purchase of five warehouses from General Motors. To ensure the success of this venture, Shumake agreed to pay third party marketer Steven Pankake and city official Derrick Miller a percentage of the investment if the boards approved the proposal. Aware that Shumake had agreed to pay off Pankake and Miller, Beasley made his own demand to Shumake, “You’re basically paying all these other guys, and I can do it, I get it done. You should be paying me.” Doc. No. 395, Tr. Vol. 8 at 74. Beasley demanded \$250,000 from Shumake in exchange for Beasley’s help getting his deal approved by the pension boards. *Id.* Shumake reluctantly agreed to Beasley’s demand, and Shumake subsequently made periodic payments to Beasley, totaling approximately \$70,000 in cash. During the course of the conspiracy, Shumake gave other bribes to Beasley, including: (1) a trip to Miami Beach for Beasley and his girlfriend; (2) multiple nights at the Atheneum Hotel for Beasley and his mistress; (3) meals, drinks, and entertainment in Detroit and elsewhere; and (4) multiple contributions to the Kilpatrick Civic Fund.

After a vote by the GRS board for a version of the deal that was unfavorable to Shumake, where Beasley was not present, Shumake went to Beasley for help. Shumake wanted a deal that ensured higher fees for Shumake, and Shumake

wanted the pension boards to pay the more than a million dollars in third party marketing fees for Pankake and Miller. Beasley assured Shumake that he would take care of it.

In subsequent GRS and PFRS board meetings, Beasley engineered votes supporting a new, more favorable, deal for Shumake. Out of eight possible scenarios for Shumake's deal, Beasley ensured that Shumake got the best possible deal for him, but the worst possible deal for the pension systems. Beasley's actions included cobbling together the needed majority vote and directing Trustee Alberta Tinsley-Talabi to bring a motion supporting the worst deal for the pension systems. As a result of Beasley's actions, the retirement systems paid the fees for Pankake and Miller in the total amount of \$1,181,440. That change was, in effect, a \$1 million bonus for Shumake, who would otherwise have been responsible for paying those fees, which are normally paid by the investment sponsor—not the pension boards.

The ICG Leaseback deal also was bad for the pension systems because it involved basically loaning money to General Motors at a time when the financial industry had recognized that General Motors was in a terrible financial position. Eventually, as a result of the General Motors bankruptcy, the Detroit pension systems were forced to take an even worse rate of return from General Motors. In September 2008, right before Beasley left office, Beasley attempted to pressure

Ben Blakney, who was a new real estate advisor to the boards, to support a sweeter deal for Shumake. Again, Beasley was acting at the behest of Shumake, who continued to give Beasley cash right up to Beasley's departure from the pension systems. Again, Beasley was motivated by his own personal greed, rather than what was best for the pension systems.

2. Bribes From Jim Papas

Beasley also received bribes and kickbacks from Dimitrios ("Jim") Papas. Papas had a financial stake in several transactions involving the pension boards. Papas had a direct stake in the Romulus toxic waste deep injection well, in which the PFRS had a substantial investment. Papas also was a third party marketer for at least three investment sponsors, including the BlackEagle deal, the Pittsburgh casino deal, and the Book-Cadillac. At trial, Beasley admitted that he had received thousands of dollars in casino chips from Papas on occasions when Beasley was at the casino with Papas. Marc Andre Cunningham also testified about Beasley going on gambling outings with Papas. Papas was deeply involved as a fund raiser, in partnership with Beasley, for the Kilpatrick Civic Fund, and Papas was involved in wining and dining Beasley and other trustees following the weekly pension board meetings at Papas' restaurants, the Mosaic and Pegasus.

In return, Beasley supported Papas' investment in the Romulus toxic waste well and Papas' BlackEagle and Pittsburgh casino deals, which resulted in hefty, six-figure commissions for Papas.

3. Bribes From Chauncey Mayfield

Beasley accepted bribes and kickbacks from Chauncey Mayfield, and Beasley ensured that Mayfield took care of Mayor Kilpatrick and his entourage. Mayfield owned MayfieldGentry Realty Advisors ("MGRA"), which had a real estate investment advisory agreement with the PFRS that involved hundreds of millions of dollars in real estate investments for the PFRS. In addition, Mayfield secured millions in investment money from the GRS. In the process, MGRA earned millions in commissions and fees from the two pension systems, and Mayfield personally earned salary and bonuses of over \$2 million.

In order to ensure that MGRA kept and expanded its business with the Detroit pension funds, Mayfield paid bribes and kickbacks at the direction of Beasley, who Mayfield knew controlled the Kilpatrick administration's bloc of votes. Mayfield's bribes to Beasley and Kilpatrick included the following: (1) a January 2007 stay at the Ballantyne Resort in Charlotte, North Carolina for Beasley, Kilpatrick, and their friends, as requested by Beasley; (2) a \$67,000 April 2007 three-day golf trip to Las Vegas on a private jet for Beasley, Kilpatrick, and friends, along with Vegas shows, massages, and suites; (3) a \$23,000 July 2007

private jet flight to Tallahassee, Florida for Kilpatrick, his sons, and Beasley's son at the request of Beasley; (4) Mayfield gave a job to Beasley's mistress, Danielle Parker, after Beasley asked Mayfield to give her a job in August 2007; (5) a \$30,000 donation to the Kilpatrick Civic Fund by Mayfield at Beasley's request in August 2007; (6) an October 2007 private jet flight to Bermuda at a cost of \$34,000 for Kilpatrick and his wife, again at the request of Beasley, who had originally been scheduled to go on the trip with his wife; and (7) Mayfield repeatedly picked up tabs in Detroit and elsewhere to pay for drinks, entertainment, and meals for Beasley and other trustees. In 2007 alone, Mayfield spent over \$160,000 on Beasley and Kilpatrick. During the fiscal year 2007-08, MGRA received a \$66 million increase in the amount of investment properties under Mayfield's management — from \$201 to \$267 million. During the conspiracy, Mayfield collected over \$2 million in compensation for himself as a result of his company's booming business with the Detroit pension systems engineered and protected by Beasley.

4. Bribes and Kickbacks From Roy Dixon

Roy Dixon was an investment sponsor and broker who dealt with the retirement systems for several years. Beasley and Detroit's two pension systems gave Dixon and his private-equity company \$20 million in pension money. In addition, Dixon sought a significant real estate investment from the PFRS in the

Turks and Caicos Islands. During the conspiracy, Beasley and the trustees had to approve capital calls from Dixon and Onyx off of the \$20 million investment. In addition, Beasley pushed forward the Turks and Caicos deal, supporting due diligence investigations and then approval of a deal in early 2008, although the deal was not ultimately funded following a hurricane that hit the islands.

Beasley and other trustees were motivated by various bribes and kickbacks that Dixon paid to them during the conspiracy. Dixon's bribes and kickbacks to Beasley included the following: (1) a luxury trip for Beasley and his family to the Turks and Caicos, including six nights in a four-bedroom, 3,000 square foot villa, with golfing and gambling, and \$2,000 in cash for airline tickets—all totaling about \$13,000 spent by Dixon on Beasley; (2) Dixon gave \$20,000 to the Kilpatrick Civic Fund at Beasley's request a few days after Beasley returned from the Turks and Caicos after Beasley said, "Hey, we took care of you, now it's time for you to take care of us, and I want you to come up big," Doc. No. 416, Tr. Vol. 20 at 149; (3) Dixon also directed Mike Farr to give \$10,000 to the civic fund at the same time; (4) in December 2007, Dixon gave Beasley a Christmas basket containing \$1,500 in cash; (5) Dixon gave Beasley a book containing approximately \$1,500 in cash; (6) Dixon gave about \$2,000 in cash to Beasley for entertainment during pension trips; and (7) Dixon picked up tabs for Beasley and other trustees in Detroit and elsewhere.

5. Beasley's Birthday Party & Zajac's Salary Increase

On January 26, 2007, co-defendant Ronald Zajac, general counsel for both pension systems, hosted a birthday party for Beasley at the Atheneum Hotel. The invited guests were persons who dealt with the pension boards. Zajac informed the guests to bring cash. They gave from \$300 to \$1,000. Zajac collected the money and gave a total of \$9,000 in cash to Beasley at the end of the evening.

Zajac's pay-off for these birthday parties came in the fall of 2007, when he received a 33 1/3% increase in his annual salary. At the October 18, 2007 PFRS meeting, Paul Stewart made a motion, which was seconded by Beasley, that Zajac's salary be increased by 33 1/3%. The motion passed, with the three elected firefighters voting no. On November 7, 2007, Beasley made a similar motion to increase Zajac's GRS salary by 33% increase. That motion also passed.

As a result of this extraordinary and unjustified salary increase, Zajac received more than \$468,000 in excess salary from the end of 2007 until he was terminated by the boards.

6. Kickbacks to Beasley on the Syncom Deal

Marc Andre Cunningham acted as a third party marketer on the Syncom deal, wherein Syncom received \$30 million in investment money from the two Detroit pension funds. Cunningham was Beasley's best friend, and Cunningham received \$300,000 in fees for his work getting Detroit investment money for

Syncom, with Beasley's assistance. In return, Cunningham gave kickbacks to Beasley of approximately \$20,000 in cash and additional cash payments to Bernard Kilpatrick with Beasley's knowledge.

7. Corruption in the CROCI Deal

Michael Wayne appeared before the GRS in September 2005, to promote an investment in CROCI, an index fund, which was a financial product offered by Deutsche Bank. The GRS referred the proposal to New England Pension Consultants ("NEPC"), their investment advisor. In a December 2005 memo, NEPC recommended that the GRS not invest in CROCI. In January 2006, Richard Huddleston, the financial analyst for both GRS and PFRS, made a similar recommendation. As a result, Wayne's CROCI deal was dead in the water.

Wayne's CROCI deal was suddenly revived and approved after Beasley took his position on the two boards, and Wayne started paying Bernard Kilpatrick thousands of dollars per month beginning in May 2006. In total, Wayne paid Bernard Kilpatrick \$302,500, and Wayne paid for two trips to London for various trustees. Beasley was the prime mover in the initial \$20 million investment by the GRS with Wayne in June 2006. Later, the PFRS gave \$10 million to Wayne. Contrary to industry practices, these deals were structured in such a way that Wayne received \$1.5 million in fees for doing nothing other than getting the investment approved. When Wayne pushed for a second \$10 million investment

from the PFRS, Zajac and some trustees asked for a third trip to London in exchange for another \$10 million, with Beasley in the middle of the dispute as established by the wiretap on Bernard Kilpatrick's phone. Because Wayne failed to pay for a third trip to London, Wayne did not get his \$10 million request.

8. Beasley Pressures Investment Sponsors to Donate to the Kilpatrick Civic Fund

Beasley took an active role in pressuring persons who did business with the pension boards to contribute to the Kilpatrick Civic Fund. The money that was collected was not used for the stated purposes, but for personal expenses of Kwame Kilpatrick and political expenses. Beasley, as the Treasurer of Detroit, who was appointed to that position by his friend, Kwame Kilpatrick, had a vested interest in Kilpatrick retaining his position as mayor. Beasley also personally derived a benefit from the fund. Among the bank records for the account of the Kilpatrick Civic Fund, there was a check for \$4,500, dated April 3, 2008, payable to "Super Camp" with the following notation: "\$1,500 down payment Chase Beasley - \$1,500 down payment Jelani Kilpatrick - \$1,500 down payment Jalil Kilpatrick."

In addition to the donations made by Shumake, Mayfield, Dixon, Syncom, and Wayne, other persons who sought favorable treatment from the pension boards made sizeable donations and were rewarded for the money that they put into the

Kilpatrick Civic Fund, including Darren Eaton, Anmar Sarafa, Christopher Jackson, Derek Batts, S&G Capital, Al Huff, Hiram Jackson, and Real Times.

B. Sentencing Guidelines Calculation for Beasley

Section 2C1.1(b)(2) of the sentencing guidelines requires an increase in the offense level based on “the value of the payment, the benefit received or to be received in return for the payment, the value of anything obtained or to be obtained by a public official or other acting with a public official, or the loss to the government from the offense, whichever is greatest.” Thus, the offense level is increased based on the greatest of (1) the loss to the government, (2) the benefit received or to be received by the person paying the bribe or kickback, or (3) the value of the bribe and/or kickback obtained by the public official.

1. The Loss to the Pension Systems

The Probation Office based its guideline calculation on the \$95,250,000 loss to the pension systems that resulted from the pension deals that were corrupted by the bribes and kickbacks accepted by Beasley. PSIR ¶¶ 62, 70. This loss results in a 24-level upward adjustment of the guidelines. The defendants have argued that this loss figure is unreliable and too attenuated to serve as a basis for the guidelines calculation. Even if those arguments are successful, the other grounds for calculating the offense level provide upward adjustments that are more directly tied

to either the bribes and kickbacks accepted by Beasley or the benefits received by the men who paid Beasley those bribes and kickbacks.

2. The Benefits Received by the Bribe Payers

During the course of the conspiracy, at least \$7.9 million in pension fund money was received by persons who paid bribes or kickbacks to Beasley and his co-conspirators as part of the conspiracy to deprive the participants and beneficiaries to their right to the honest services of the trustees. The following list is a conservative computation of those illegal benefits:

Shumake	\$1,181,440	1% increase in acquisition fee for ICG Leaseback investment under Scenario 8
Papas	\$600,000	Fee for BlackEagle investment
Mayfield	\$2,000,000	Salary, bonuses, and cash disbursements to Mayfield personally
Dixon	\$1,290,000	Fees by pension funds to Dixon and Onyx
Zajac	\$468,000	Salary increase
Cunningham	\$300,000	Fees for Syncom investment
Wayne	\$1,500,000	Fees for CROCI investment
Christopher Jackson	\$360,000	Fees for Real Times and Life Assurance investments
Pankake	\$300,000	Fees on the McRae Investment
Total	\$7,999,440	

If the Court uses this method of calculating the guideline range, Beasley would receive a 20-level upward adjustment instead of the 24-level adjustment based on the loss to the pension systems.

3. **Value of the Bribes and Kickbacks Obtained by Beasley and His Co-Conspirators**

Section 2C1.1(b)(2) provides for an enhancement of the guideline range based on the “value of anything obtained or to be obtained by a public official or others acting with a public official.” Because the value of the benefits received by the bribe payers in return for the payments to Beasley and his co-conspirator public officials is greater than the value of the things obtained by Beasley and those public officials acting with him, the United States is not seeking a sentencing guideline range based on the value of the things obtained by Beasley and those acting with him. However, in order to be complete, set forth below is a list of the things received by Beasley or those working with him:

Payments Received by Beasley or Co-Conspirators

Cash received or to be received by Beasley

\$250,000	Cash to be obtained from Robert Shumake—\$70,000 received
\$20,000	Cash from Marc Cunningham—kickbacks from Syncom payments
\$10,000	Cash from Al Huff—kickbacks from S&G Capital
\$1,500	Cash from Roy Dixon—Christmas basket
\$1,500	Cash from Roy Dixon—placed in book
\$2,000	Cash from Dixon during 2008 Florida trips
\$9,000	Cash from January 2007 birthday party—supplied by Zajac

\$3,000	Cash from Chris Jackson in Chicago
\$10,000	Casino chips and gambling coverage from Jim Papas

Total: \$307,000

Other Things of Value

\$800	Golf clubs placed in Beasley's trunk from John Clark
\$2,000	Hotel stays at Atheneum for Beasley from Shumake and Papas
\$100,000	Job at MGRA for Beasley's mistress (two years salary)
\$1,500	Super Camp for Beasley's child paid for by Kilpatrick Civic Fund
\$3,000	Meals, drinks, and entertainment paid for by investment sponsors

Total: \$107,300

Trips for Beasley

\$4,000	Miami trip for Beasley and mistress from Robert Shumake
\$13,000	Cost of Family Vacation in Turks & Caicos for Beasley from Dixon
\$958	Atlanta Marriott stay—paid by Dixon in September 2008

Total: \$17,958

MayfieldGentry Travel

\$67,000	Las Vegas golfing trip for Beasley, Kilpatrick, and entourage
\$3,000	Hotel for Beasley, Kilpatrick, and friends Charlotte, NC
\$24,000	Tallahassee trip for Kwame Kilpatrick, his sons, and Beasley's son
\$34,000	Bermuda plane trip for Kwame Kilpatrick, wife, and Bernard Kilpatrick at Beasley's request

Total: \$128,000

Kilpatrick Civic Fund Donations

\$45,000	Roy Dixon and Mike Farr
\$1,000	Jason Runco
\$22,500	Clark Hill
\$50,000	Chauncey Mayfield
\$55,000	Chris Jackson relating to various deals
\$20,000	Darren Eaton and Oracle
\$27,550	S&G Capital
\$10,000	Life Assurance
\$10,000	Seneca/Nob Hill
\$13,000	Steward Capital./Munros—Anmar Sarafa
\$1,000	Al Huff
\$35,000	Syncom/Terry Jones
\$20,000	Helicon Holdings
\$20,000	Pegasus Greektown
\$5,000	Gary Giumetti
\$30,000	Real Times/Hiram Jackson
\$15,000	Miller & Jacobs
\$10,000	Robert Shumake
\$5,000	Munimae
\$3,000	Paul Bernard
\$5,000	Derek Batts
\$11,000	Mike Wayne

Total: \$414,050

Payments to other members of the conspiracy directly related to Beasley

\$302,500	Payments by Mike Wayne to Bernard Kilpatrick
\$48,000	Marc Cunningham kickbacks to Bernard Kilpatrick from Syncom
\$568,000	Payment to Derrick Miller (CIO of Detroit) from ICG Leaseback

Total: \$918,500

Total: \$1,892,808 attributable to Beasley

(does not include payments received by Paul Stewart and Marty Bandemer)

Based on the \$1.8 million attributable to Beasley, he would receive a 16-level upward adjustment under Section 2C1.1(b)(2).

If you look just at the things of value that Beasley himself personally received or was to receive in the conspiracy, this total is \$402,258. This figure includes the cash, other things of value, trips for Beasley, and some of the MayfieldGentry travel. It does not include the income to Danielle Parker or the trips to Bermuda and Tallahassee, on which Beasley did not travel. This results in in a 14-level upward adjustment under Section 2C1.1(b)(2). However, even though Beasley did not personally receive a number of the payments outlined above, they are still attributable to him under the guidelines as things of value received by the public official or others acting with the public official under Section 2C1.1(b)(2).

**C. The Seriousness of Beasley's Crimes, Just Punishment, and
Respect for the Law (18 U.S.C. § 3553(a)(2)(A))**

A very substantial prison sentence is necessary to reflect the seriousness of Beasley's crimes, to provide just punishment for those crimes, and to promote respect for the law. Beasley pervasively and systematically corrupted Detroit's pension systems during his two and a half year reign as Treasurer and Trustee. His

corruption would have continued but for the fall of Mayor Kilpatrick's administration. Although there certainly was corruption and unethical behavior in the Detroit pension systems in the years before Beasley arrived on the scene in January 2006, Beasley as Treasurer and Trustee acted as a catalyst of corruption. He used his intelligence, experience, charisma, and leadership to put together majorities of trustees who were either corrupt themselves or who simply did not care enough and would willingly follow the City Treasurer's lead in how to vote and how to invest the pensioners' money. Beasley infused his greed into the daily business of the pension systems, taking every opportunity to turn the pensioners' business into his own personal enrichment.

Public corruption such as that perpetuated by Beasley is a serious crime that harms our democracy. During President Theodore Roosevelt's State of the Union Address on December 7, 1903, he emphasized the profound damage that public corruption inflicts upon the government and its people:

There can be no crime more serious than bribery. Other offenses violate one law while corruption strikes at the foundation of all law. Under our form of government all authority is vested in the people and by them delegated to those who represent them in official capacity. There can be no offense heavier than that of him in whom such a sacred trust has been reposed, who sells it for his own gain and enrichment. . . . He is as wicked as the murderer, for the murderer may only take one life against the law, while the corrupt official and the man who corrupts the official alike aim at the assassination of the commonwealth itself.

2 *State of the Union Messages of the Presidents* 2081 (1966).

The pensioners and employees had the right to expect that Beasley would use all of his skills, talents, and integrity to ensure the security and growth of the money entrusted to his care. Instead, they got widespread graft, extortion, and theft. Beasley took bribes and kickbacks from people like Chauncey Mayfield and Roy Dixon in exchange for Beasley directing the pensioners' money into the proposed investments of Mayfield and Dixon. Unsurprisingly, these men then turned around and proceeded to steal and embezzle millions from the pension systems. This is the kind of culture that Beasley fostered.

Beasley's crimes undermined the pensioners' and employees' confidence in their own financial security upon their retirement and their confidence in their public officials because of the corrosive nature of Beasley's corruption. As described by a federal judge in the prosecution of a corrupt mayor of Bridgeport, Connecticut:

Government corruption breeds cynicism and mistrust of elected officials. It causes the public to disengage from the democratic process because . . . the public begins to think of politics as "only for the insiders." Thus corruption has the potential to shred the delicate fabric of democracy by making the average citizen lose respect and trust in elected officials and give up any hope of participating in government through legitimate channels.

United States v. Ganim, No. 3-01-CR-263, 2006 WL 1210984, at *5

(D. Conn., May 5, 2006), *aff'd*, 510 F.3d 134 (2d Cir. 2007).

Given the damage that Beasley has done to Detroit's pension systems and the harm to its pensioners, beneficiaries, and employees, a very substantial

sentence is necessary not only to sufficiently punish Beasley, but to renew public confidence in the rule of law.

**D. Deterring the Criminal Conduct of Others
(18 U.S.C. § 3553(a)(2)(B))**

Imposing a significant prison sentence on Beasley also serves the important purpose of deterring future public officials in this district and beyond from engaging in similar misconduct. *See* 18 U.S.C. § 3553(a)(2)(B). General deterrence has its greatest impact in white-collar cases, like this one, because these crimes are committed in a more rational and calculated manner than sudden crimes of passion or opportunity. *United States v. Peppel*, 707 F.3d 627, 637 (6th Cir. 2013) (quoting *United States v. Martin*, 455 F.3d 1227, 1240 (11th Cir. 2006)). As a federal judge in Chicago stated:

We need not resign ourselves to the fact that corruption exists in government. Unlike some criminal justice issues, the crime of public corruption can be deterred by significant penalties that hold all offenders properly accountable. The only way to protect the public from the ongoing problem of public corruption and to promote respect for the rule of law is to impose strict penalties on all defendants who engage in such conduct, many of whom have specialized legal training or experiences. Public corruption demoralizes and unfairly stigmatizes the dedicated work of honest public servants. It undermines the essential confidence in our democracy and must be deterred if our country and district is ever to achieve the point where the rule of law applies to all --- not only to the average citizen, but to all elected and appointed officials.

United States v. Spano, 411 F.Supp.2d 923, 940 (N.D. Ill. 2006).

This case is a part of the group of prosecutions of the Kilpatrick administration's corrupt governance of the city. This Court imposed serious sentences on former Mayor Kilpatrick and Bobby Ferguson of 28 and 21 years respectively. This case is the final chapter of this series of cases. By their very nature, pension systems are especially vulnerable to corruption. Billions of dollars in public pension money are overseen by public officials in this state and across the country. These officials will be tempted to use their positions for their own benefit. These trustees need to know that there are severe consequences for violating the public trust. A very substantial sentence in this case will demonstrate to them and to the citizens of the region that corruption will be seriously addressed and punished when discovered.

**E. Protecting the Public from Further Crimes by Beasley
(18 U.S.C. § 3553(a)(2)(C))**

Beasley has shown no appreciation of the gravity of his crimes, and he has shown no remorse. After leaving the Detroit pension systems in 2008, Beasley took another job with a law firm that works with pension systems whereby he could leverage his connections and experience overseeing public pension systems. This put him in the position to engage in the same sort of corrupt conduct that resulted in his convictions. Beasley's lack of remorse and his willingness to commit perjury at trial does not give any confidence that he will not commit new

crimes if given the liberty to do so. Based on his convictions, Beasley was terminated from his employment, and his convictions make it unlikely that he will be put in a position to commit additional crimes in the future.

**F. Sentences Contemplated by the Sentencing Guidelines
(18 U.S.C. § 3553(a)(4)(A), (b)(1) & (c))**

The government concurs with the factual findings and calculations contained in the presentence investigation report with two exceptions. The PSIR assigns Beasley a total offense level of 43, which puts his guidelines range of imprisonment at life. The PSIR, however, does not provide for upward adjustments for obstruction of justice and role in the offense, as it should given Beasley's perjury at trial and his role as a leader organizer of the offense.

1. Specific Offense Characteristics

As a starting point, Beasley's base offense level is fourteen because he committed his honest services, extortion, and bribery crimes while acting as a "public official." U.S.S.G. §§ 2E1.1 & 2C1.1(a)(2). To make matters worse, Beasley was not a lower-level public official. Instead, he was the City Treasurer, as well as a Trustee on both of Detroit's pension boards which oversaw billions of dollars. As a result, his base offense level should be increased by four levels because he was a public official in a "high-level decision making or sensitive position." *Id.* at § 2C1.1(b)(3). His offense level should be increased by another two levels because he accepted multiple bribe payments from various local

businessmen, including Robert Shumake, Chauncey Mayfield, Jim Papas, Al Huff, Roy Dixon, Chris Jackson, and others. *Id.* at § 2C1.1(b)(1).

Beasley's offense level must be further adjusted upward because of the benefit received or the loss suffered as a result of his honest services conspiracy. *Id.* at § 2C1.1(b)(2). To calculate this adjustment, the court must make a reasonable estimate, by a preponderance of the evidence, of the greater of the "actual" benefit/loss and the "intended" benefit/loss. U.S.S.G. § 2B1.1, cmt., app. n. 3(C); *United States v. Blackwell*, 459 F.3d 739, 772 (6th Cir. 2006); *United States v. Triana*, 468 F.3d 308, 320 (6th Cir. 2006). The court need not establish the value of the benefit/loss with precision, but simply must publish its resolution of contested factual matters forming the basis for its valuation. *United States v. Peppel*, 707 F.3d 627, 645 (6th Cir. 2013).

As a leader of a criminal conspiracy, Beasley is responsible for all the financial losses or gains within the scope of the conspiracy so long as they were reasonably foreseeable. U.S.S.G. § 1B1.3(a)(1)(B); *United States v. Campbell*, 279 F.3d 392, 399-400 (6th Cir. 2002); *United States v. Hamilton*, 263 F.3d 645, 654 (6th Cir. 2001). As set forth above, there are three possible calculations: the loss to the pension systems, the value of the benefits received by the bribe payers, or the value of the benefits received or to be received by Beasley and the public officials working with him that were foreseeable to Beasley. In the course of the

conspiracy, the loss to the pension systems was \$95 million. The bribe payers received an approximate benefit of \$7.9 million. And the benefits received by Beasley and his co-conspiring public officials was \$1.8 million. Based on these three figures, Beasley would receive a 24-level (\$95 million loss), 20-level (\$7.9 million benefit), or 16-level (\$1.8 million benefit to the public officials) upward adjustment based on the value of the benefit or loss under the ranges set forth in Section 2B1.1(b)(1).

Under the Probation Office's calculation, which uses the \$95 million loss figure, Beasley's range is 840 months, based on an offense level of 43. PSIR ¶ 109. If the Court applies the \$7.9 million benefit to the bribe payers' calculation, instead of the loss to the pension systems, then Beasley's range is 292 to 365 months, based on an offense level of 40. Applying the benefit received or to be received by Beasley and his co-conspirators, Beasley's range is 188 to 235 months, with an offense level of 36. These numbers, however, do not take into consideration Beasley's role as a leader/organizer of the offense or his perjury during his trial testimony as discussed below.

2. Beasley Acted as a Leader and an Organizer of the Offense

Beasley's role in the honest services fraud conspiracy supports a four-level enhancement under Section 3B1.1(a) because he was an organizer or leader of a criminal activity involving five or more participants or that was otherwise

extensive. U.S.S.G. § 3B1.1(a). A conspiracy is “otherwise extensive” when “the combination of knowing participants and non-participants in the offense is the functional equivalent of an activity involving five criminally responsible participants.” *United States v. Anthony*, 280 F.3d 694, 699 (6th Cir. 2002).

“[W]hen a business’s top officer knows of corruption in the business and implicitly approves it by participating in the corruption, a four-level enhancement under § 3B1.1(a) is proper.” *United States v. DeRiggi*, 72 F.3d 7, 8-9 (2d Cir. 1995) (per curiam).

The evidence at trial clearly demonstrated that the honest services fraud conspiracy was extensive and involved far more than five participants. It also showed that Beasley was not merely a participant, but was one of the conspiracy’s leaders and organizers, directing numerous others, including Alberta Tinsley-Talabi, Robert Shumake, DeDan Milton, Chauncey Mayfield, Roy Dixon, Chris Jackson, Marc Andre Cunningham, and the various designee-Trustees of the Police Chief and Fire Commissioner.

For example, Beasley directed Trustee Talabi to bring a motion in support of a favorable deal for Shumake. Beasley then engineered the vote of a majority of trustees of the PFRS to support his deal despite the vociferous opposition of other trustees and the financial logic of the scenarios more favorable to the pension systems. A week later, before the GRS, Beasley secured the same, flawed deal for

Shumake. In the Onyx deal, Beasley engineered a vote to lift a 10% restriction on both boards that had blocked Dixon from getting any investment monies. The following year, Beasley restructured the Turks and Caicos deal in order to secure a majority vote. Beasley directed Mayfield to supply private jets, hotel accommodations, and other entertainment for Mayor Kilpatrick and his entourage. Beasley pressured board advisor Ben Blakney to give a favorable recommendation to a restructured pension deal for Shumake. Throughout the conspiracy, Beasley was the driving force and organizer behind the effort to secure contributions to the Kilpatrick Civic Fund from people having business before the pension systems. These are just a few examples of Beasley's role in the conspiracy.

Under the circumstances, a four-level enhancement based on Beasley's role as a leader and organizer is more than warranted.

3. Beasley's Obstruction of Justice at Trial

Given his perjury during his trial testimony, Beasley should receive a two-level upward adjustment for obstruction of justice under Section 3C1.1. Instead of simply remaining silent at trial and forcing the government to meet its burden, Beasley made the conscious decision to take the stand and commit perjury. This decision should be reflected in the PSIR and in the Court's consideration of an appropriate sentence. Just as Beasley was willing to corrupt the decision-making

process of the Detroit pension systems, Beasley attempted to corrupt the decision of his jury through his false testimony.

Beasley's false testimony at trial centered on his denials of demanding and accepting the most blatant of his bribes. For example, although Beasley was willing to admit to accepting certain things of value like the trip to the Turks and Caicos, cash at his birthday party, and meals and drinks at the Mosaic, which were readily provable, Beasley flatly denied demanding and accepting certain bribes and kickbacks from Robert Shumake, Marc Andre Cunningham, and Roy Dixon. In this regard, Beasley flatly denied demanding \$250,000 from Shumake for assistance in getting the ICG Leaseback deal accepted. Doc. No. 424, Tr. Vol. 28 at 55, 118. Beasley then further falsely denied accepting any cash from Shumake, let alone approximately \$70,000 in cash testified to by Shumake. *Id.* at 56 ("he's never given me any cash"). Beasley also falsely denied accepting cash from Dixon in the Christmas basket (\$1,500), in the book (\$1,500), on pension trips in Florida (\$2,000), and for airline tickets to the Turks (\$2,000). *Id.* at 96-97. Beasley also falsely denied accepting about \$20,000 in cash from Cunningham, claiming instead that they traded cash back and forth, and then falsely claiming that he at most took \$1,500 from Cunningham. *Id.* at 64-66; Doc. No. 425, Tr. Vol. 29 at 53. Beasley also falsely claimed that he did not even know that Cunningham was getting paid

by Syncom on the deal. Doc. No. 424, Tr. Vol. 28 at 65 (“I didn’t know he was getting paid for the --- from the deal”).

Besides his false denials of the acceptance of cash bribes and kickbacks, Beasley also lied in connection with other demands. For example, Beasley falsely claimed that he had no knowledge of and was uninvolved in arranging the private jet flights from Chauncey Mayfield for Mayor Kilpatrick to Tallahassee and Bermuda, purportedly for civic fund business. *Id.* at 86, 143, 148. Beasley lied about arranging these trips because admitting his involvement would have shown that Beasley was aware that the civic fund was simply a slush fund and an excuse to shake down city vendors for money since Beasley was aware that no fund raisers for the civic fund were taking place in Tallahassee or Bermuda. Instead, Beasley’s own son traveled to Tallahassee on the private jet, and Beasley and his wife were scheduled to go to Bermuda with Mayor Kilpatrick.

Finally, Beasley falsely claimed that he had no knowledge that Michael Wayne had hired and was paying Bernard Kilpatrick. Doc. No. 425, Tr. Vol. 29 at 20, 22, 27. However, the evidence from the wiretap showed that Beasley was meeting with Bernard Kilpatrick and talking to him over the phone about the CROCI investment and Wayne’s request for an additional \$10 million in exchange for a third trip to London. *Id.* at 21-22. Beasley lied about his knowledge of the Wayne-Kilpatrick financial arrangement because his knowledge of it would

explain why Beasley pushed for the \$30 million investment in CROCI by the pension funds even though the boards' financial analyst and an independent pension advisory firm recommended against investing in a fund targeted at individual investors, not multi-billion dollar institutional investors like the Detroit pension funds.

Beasley's multiple efforts in committing perjury should be taken into consideration in fashioning a fair sentence.

G. Avoiding Sentencing Disparities Among Similarly Situated Defendants (18 U.S.C. § 3553(a)(6))

Beasley's corrupt acts had a significant impact on the pensioners and the Detroit pension systems. No other pension trustee across the country has had such an impact on their pension systems, nor has their corruption been as widespread and blatant as Beasley's. Beasley's guideline range reflects the serious and extensive nature of his corruption. His sentence also should reflect these facts.

Section 3553(a)(6) instructs courts to consider "the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct." That subsection "is concerned with national disparities among the many defendants with similar criminal backgrounds convicted of similar criminal conduct." *United States v. Benson*, 591 F.3d 491, 505 (6th Cir. 2010). A court's careful review of the guideline range "necessarily

[gives] significant weight and consideration to the need to avoid unwarranted disparities.” *Gall v. United States*, 552 U.S. 38, 54 (2007). In fact, one of the “central reasons” for adopting the sentencing guidelines in the first place “was to ensure stiffer penalties for white-collar crimes and to eliminate disparities between white-collar sentences and sentences for other crimes.” *United States v. Peppel*, 707 F.3d 627, 638-39 (6th Cir. 2013).

That national consensus for stiffer white-collar penalties has intensified in public corruption cases. In November 2004, the Sentencing Commission even amended the guidelines to increase the punishment for corrupt public officials. The Commission explained that “public corruption offenses previously did not receive punishment commensurate with the gravity of such offenses,” especially when compared with other white-collar crimes. U.S.S.G., App’x C, Vol. III, at 82 (Amendment 666). The Commission thus increased the base offense level for public officials because “offenders who abuse their positions of public trust are inherently more culpable than those who seek to corrupt them, and their offenses present a somewhat greater threat to the integrity of governmental process.” *Id.*

Since then, federal courts have increasingly handed out substantial sentences in public corruption cases where state and local elected officials have inflicted serious damage on the community. For example:

- **Matthew D. Hutcheson**, No. 12-00093 (D. Idaho), *aff'd*, *United States v. Hutcheson*, 603 Fed App'x 613 (9th Cir. 2015). Hutcheson was a trustee and fiduciary of two retirement plans who misappropriated \$5.3 million of retirement funds. Hutcheson was charged with wire fraud, and he was convicted following a jury trial. The trial judge found that Hutcheson had committed perjury during the trial, defrauded more than 250 victims in the retirement fund, and abused a position of private trust as a trustee of the plans. Hutcheson was sentenced to 210 months (17.5 years) in prison. The Ninth Circuit affirmed the conviction and sentence, specifically finding that the 17.5 year sentence was substantively reasonable.
- **David Friedland**, No. 85-332. Friedland was a former New Jersey State Senator charged with defrauding the pension fund of a Teamsters union local. Friedland was indicted for racketeering, wherein he paid bribes to pension trustees and a lawyer for the pension fund in exchange for a \$20 million investment, which Friedland then used to invest in high-risk loans, some of which failed. Friedland and a co-conspirator also diverted approximately \$2.2 million in pension money, and Friedland fled the United States fearing indictment. Four days into a jury trial, Friedland pleaded guilty. Friedland was sentenced to 15 years and eleven months in prison in a pre-guidelines case.
- **Corey Kemp**, No. 04-CR-370 (E.D. Pa.), *aff'd*, *United States v. Kemp*, 500 F.3d 257 (3d Cir. 2007). Kemp was the City Treasurer of Philadelphia, and he was charged with honest services fraud conspiracy and other crimes based on his acceptance of multiple bribes. As Treasurer, Kemp directed city contracts and showed favoritism in the selection of underwriters, bond counsel, and other advisors because of the bribes that he accepted from his co-conspirators. Kemp accepted a \$10,000 payment, trips and tickets to the Super Bowl, the NBA All-Star game, and other events, a \$10,000

deck for his home, and expensive lunches and dinners. Kemp was convicted at trial and sentenced to 120 months (10 years) in prison.

- **Timothy Cromer**, No. 13-CR-20067-Steeh (E.D. Mich.). Cromer was the head of the IT department of the Detroit Public Library. In exchange for directing approximately \$5 million in library IT contracts to two businessmen, Cromer received about \$1.4 million in kickbacks. Cromer pleaded guilty, and he was sentenced to 120 months (10 years) in prison.
- **Michael Grundy**, No. 12-CR-20153-Hood (E.D. Mich.). Grundy was the Executive Director of HealthChoice of Michigan, an entity of the Wayne County government created to promote access to health care. Grundy fraudulently misappropriated at least \$700,000 from HealthChoice. Grundy pleaded guilty, and he was sentenced to 90 months in prison.
- **Mark Ciavarella and Michael Conahan**, No. 09-CR-00272 (M.D. Pa.), *aff'd*, *United States v. Ciavarella*, 716 F.3d 705 (3d Cir. 2013). In 2009, Ciavarella and Conahan, both Pennsylvania state judges, were charged with racketeering for accepting a total of \$2.8 million from the owners of several juvenile detention centers in return for the judges' support in the construction and operation of the facilities, as well as for the judges' failure to disclose their conflicts of interest when placing juvenile offenders at the facilities. Ciavarella was convicted at trial and sentenced to 336 months (28 years) in prison. Conahan pleaded guilty and was sentenced to 210 months (17.5 years) in prison.
- **Donald W. Hill**, No. 3-07-CR-289-M (N.D. Tex.), *aff'd*, *United States v. Reagan et al.*, 725 F.3d 471 (5th Cir. 2013). In 2009, Hill, a Dallas City Councilman, was convicted of bribery and extortion for helping provide public financing, zoning clearance, and political support to affordable housing developers in exchange for the

developers' employment of Hill's associates and appointees as consultants. The evidence at sentencing showed that Hill's associates received about \$270,000 in fees and other benefits through the scheme, and that losses totaled about \$4.8 million, but there was little if any evidence that Hill himself received money from the scheme. Despite his lack of personal enrichment, Hill was sentenced to 216 months (18 years) in prison.

- **Jonathan Bolar**, No. 09-CR-00138 (E.D. La.), *aff'd*, *United States v. Bolar*, 483 Fed. App'x 876 (5th Cir. 2012). In 2010, Bolar, a Gretna, Louisiana city councilman, was convicted of extortion for pressuring people to hire his construction firm or give him campaign donations in return for his support in various land-use matters. Although Bolar extorted a total of only \$122,000, the trial court applied an upward variance from the guideline range of 121-151 months because of Bolar's "pervasive extortion," as well as his obstructive conduct. The resulting 204-month (17 year) prison sentence was affirmed by the Fifth Circuit.
- **Larry P. Langford**, No. 08-CR-00245 (N.D. Ala.), *aff'd*, *United States v. Langford*, 647 F.3d 1309 (11th Cir. 2011). Langford, the president of the Jefferson County Commission and later the mayor of Birmingham, Alabama, was convicted in 2009 of accepting bribes for steering county bond work to an investment banking firm in exchange for \$240,000 in cash, clothing, and jewelry. Langford was sentenced to 180 months (15 years) in prison based on a net benefit to the investment banking firm of \$5.5 million. The corrupted bond deals later contributed to Jefferson County's \$4 billion bankruptcy filing, the largest municipal bankruptcy in U.S. history before the \$18 billion filing by the city of Detroit.

Beasley's corruption and greed while City Treasurer and Trustee was a complete betrayal of the trust of the City's pensioners and employees. Beasley

sought to take advantage of his high public office for his own personal benefit, without a care for the damage that it could inflict on the tens of thousands of pensioners, beneficiaries, and employees. The damage caused by Beasley to Detroit's two pension funds can be measured in terms of direct financial loss from corrupt investments, lost opportunity costs of better, non-corrupt investments, and the psychic damage to elderly pensioners concerned about their financial futures in light of Beasley's corruption.

Although there are no identical comparisons, Beasley's crimes are measured at the very highest levels of the sentencing guidelines. These examples from state and local corruption cases demonstrate the kinds of sentences courts have applied in similar cases. Beasley's guideline range accounts for the seriousness and significance of his criminal activity, it provides for deterrence to other public officials, and it calls for a severe sentence to avoid unwarranted disparities with other defendants. The court therefore should sentence Beasley to at least 15 years in prison.

III. CONCLUSION

Jeffrey Beasley used his position as City Treasurer and Trustee to satisfy his own greed. Instead of putting the interests of the pensioners, beneficiaries, and employees first, Beasley put his own interests and the interests of the men who paid him bribes and kickbacks first. As a result, the City's pension systems lost

millions of dollars and Beasley pocketed hundreds of thousands of dollars and lived a lifestyle of the jet-set. When confronted with investigation, prosecution, and trial for his criminal activity, Beasley then chose to obstruct the judicial process by taking the stand and lying.

Based on the foregoing, the Court should sentence defendant Jeffrey Beasley to a term of imprisonment of at least 15 years.

Respectfully submitted,

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DATED: September 14, 2015

CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2015, I electronically filed the foregoing document with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

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